STATE OF MICHIGAN

COURT OF APPEALS

In re A. G. DAVIS, Minor.

UNPUBLISHED
March 20, 2018

No. 340398
Wayne Circuit Court
Family Division
LC No. 11-500336-NA

Before: TALBOT, C.J., and BECKERING and CAMERON, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating his parental rights to his minor child under MCL 712A.19b(3)(c)(*i*) (conditions at the time of adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (reasonable likelihood of harm if the child is returned to the parent). We affirm.

I. STATUTORY GROUNDS FOR TERMINATION

Respondent raises two issues on appeal. First, he argues that the trial court clearly erred in finding that petitioner proved any statutory grounds for termination by clear and convincing evidence. We disagree.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). This Court reviews orders terminating parental rights for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009); MCR 3.977(K). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Clear error exists "if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004). "Only one statutory ground for termination need be established." *In re Olive/Metts Minors*, 297 Mich App 35, 41; 823 NW2d 144 (2012).

The trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j), which provide as follows:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . :

(*i*) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

It is undisputed that respondent had chronic substance abuse and inadequately treated mental health issues, which included diagnoses of schizoaffective disorder and alcohol dependency. The child was removed from the custody and care of the mother and respondent shortly after birth, primarily because of the parents' substance abuse issues. Respondent regained custody after he completed a treatment plan that included parenting classes, random drug and alcohol screens, mental health services, and counseling, and the court terminated the wardship in September 2014. The mother's parental rights were terminated. The child was again removed from respondent's care in May 2015 because of respondent's substance abuse and inability to properly supervise the child. Respondent had been incarcerated for 69 days for a third alcohol-related driving offense, and he also had tampered with the alcohol tether required under the terms of his probation for a previous offense.

On August 5, 2015, the trial court ordered respondent to comply with and benefit from a treatment plan. Respondent was to complete a psychiatric evaluation and follow all recommendations, participate in and benefit from group and individual therapy (including periodic medication reviews) along with substance abuse therapy, submit random drug screens, maintain suitable housing and a legal source of income, visit his child regularly, maintain contact with his caseworkers, and attend all court hearings. Respondent was also required to comply with all mental health services provided by Community Care Services.

Initially, respondent participated in treatment plan services. Respondent told the court that he understood the importance of regular mental health therapy. He completed a psychological evaluation, but failed to appear for a scheduled psychiatric evaluation. Shortly after being released from jail, respondent showed a complete lack of self-insight by stating, when

asked if he had a problem with alcohol, "I would say I did have a problem with alcohol years ago and I have made mistakes, but as far as of today, right now, no, I don't." Respondent claimed that he had not tested positive for alcohol for a year. Later, on cross-examination, he admitted that he drank alcohol within the previous two months.

The record clearly showed that, after 24 months, respondent had not substantially complied with and benefited from services designed to assist him in achieving and maintaining sobriety and emotional stability and in fostering a relationship with his child. Throughout the course of these proceedings respondent continued to abuse alcohol. At one point respondent was allowed supervised parenting time at the relative foster caregiver's home, but visits were returned to petitioner's offices because of respondent's continued intoxication. Evidence of respondent's continued abuse of alcohol from January 2016 through February 2017 includes positive drug screens and the caseworker's observations of respondent's slurred speech. In addition, two impromptu visits were made to respondent's home, and on both occasions, he was visibly intoxicated. Yet, respondent continually reported that he was not drinking. In subsequent months, the trial court ordered respondent to attend weekly Alcoholics Anonymous meetings, obtain a sponsor, and participate in outpatient and inpatient substance abuse treatment. Prior to adjourning the May 2017 termination hearing, the court advised respondent that he would lose his parental rights unless he participated in an inpatient treatment program and stayed sober. Nevertheless, a caseworker later testified that at a June 2017 home visit, respondent was visibly intoxicated and refused to submit to a screen; the caseworker opined that respondent had not come to terms with his alcohol abuse.

In light of the foregoing, we conclude that the trial court did not clearly err in finding that petitioner provided clear and convincing evidence establishing grounds for termination of respondent's parental rights pursuant to MCL 712A.19b(3)(c)(*i*). The conditions that led to the child's removal continued to exist more than 182 days after the initial dispositional order, and there was no reasonable likelihood that respondent would be able to provide care and custody of his child within a reasonable time, given the child's young age. *Id*. Because petitioner only needed to establish one ground for termination, we need not address whether the trial court properly found additional grounds. *In re Olive/Metts Minors*, 297 Mich App at 41.

Respondent does not challenge the trial court's conclusion that, if there exists a statutory ground for termination, then termination of his parental rights is in the best interest of the child, nor does our review of the record reveal grounds to do so. A preponderance of the evidence supports the trial court's findings that termination of respondent's parental rights is in the child's best interest. *In re Laster*, 303 Mich App 485, 496; 845 NW2d 540 (2013). The record indicates that the parent-child bond has deteriorated to the point that the child no longer asks to see respondent, most of the child's life prior to the termination hearing had been spent in foster care, and the child was thriving in the safety and security of placement with a relative who is willing to adopt. See *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014); *In re Olive/Metts Minors*, 297 /am 35, 41-42; 823 NW2d 144 (2012). Accordingly, we find no clear error in the trial court's decision to terminate respondent's parental rights. *In re Rood*, 483 Mich at 90-91, 126 n 1; MCR 3.977(K).

II. REASONABLE EFFORTS

Respondent next contends that termination was improper because petitioner failed to make as much of an effort to provide respondent with services as it had made when the child was first removed from his care in 2013. Specifically, respondent asserts that petitioner's efforts to get him into an inpatient substance abuse program were lackluster. Again, we disagree.

It is well established that petitioner must make reasonable family reunification efforts absent specific aggravated circumstances, MCL 712A.19a(2), and that a court may not terminate parental rights unless a parent is allowed a meaningful opportunity to participate in services, *In re Mason*, 486 Mich at 156-160. As previously indicated, the trial court ordered respondent to participate in a psychiatric evaluation and individual therapy, to maintain suitable housing, a legal source of income, and contact with the caseworker, to attend all court hearings, random drug screens, and parenting-time visits, and to participate in and benefit from mental health services at Community Care Services. There is no record evidence that respondent requested different services or that petitioner failed to make the proper referrals for the services ordered. At none of the numerous review hearings in this matter did respondent object to the trial court's finding that petitioner made reasonable efforts at reunification during the review period. Yet, record evidence shows that respondent's participation in the treatment plan was at best partial and his benefit therefrom insignificant.

With regard to respondent's specific argument on appeal, the record shows that the trial court adjourned the May 8, 2017 termination hearing and ordered respondent to participate in an inpatient substance abuse treatment program. At the June 22, 2017 continuation of the termination hearing, petitioner informed the court that difficulties with respondent's insurance had been resolved, thus letting respondent now enroll in an appropriate inpatient program, and asked the court to adjourn the hearing to allow respondent an opportunity to seek treatment. The trial court again adjourned the hearing until August 29, 2017. When the hearing continued, respondent's caseworker testified that, despite leaving messages on respondent's three cell phones, she had been unable to reach him since June 6, 2017. She also testified that she sent respondent two letters in June 2017 providing contact information for four different, suitable inpatient programs, along with her own telephone number in case he had any questions or difficulty getting into a program. Respondent did not respond, and his attorney admitted that she had no explanation for why respondent did not enter an inpatient treatment program.

In light of the record, we conclude that petitioner made reasonable efforts at reunification, including efforts at trying to get respondent to participate in a suitable inpatient substance abuse program. Petitioner sent respondent letters containing contact information for four suitable programs, offered his caseworker's assistance in enrolling in a program, and sought an additional adjournment of the termination hearing to give respondent an opportunity to enroll. Respondent contends that petitioner could have done more, such as simply enrolling him in a program or identifying "representatives that could have met with [respondent]." However, nothing in the record signals that respondent would have attended any program in which his caseworker had enrolled him, and the caseworker provided respondent her telephone number and invited him to contact her if he needed help enrolling in a program. That respondent had expressed a disinclination to participate in an inpatient program and had closed himself off from communicating with his caseworker, not taking her calls since June 6, 2017, and not responding

to her letters with information about treatment programs, further belies respondent's suggestion that petitioner's extra effort would have produced a different outcome. Although petitioner has an obligation to provide reasonable services, petitioner cannot force the parent's participation or control service outcomes. The record in the instant case leaves us with a firm conviction that respondent simply failed to meet his commensurate responsibility to participate in the services offered. See *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

Affirmed.

/s/ Michael J. Talbot
/s/ Jane M. Beckering
/s/ Thomas C. Cameron